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WP No. 11883 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.04.2026

PRONOUNCED ON : 10.04.2026

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

WP No. 11883 of 2020

K.Tamilselvi

Petitioner

Vs

1. The Life Insurance Corporation of India
rep by the Zonal Manager, LIC Building,
153, Anna Salai, Chennai-02

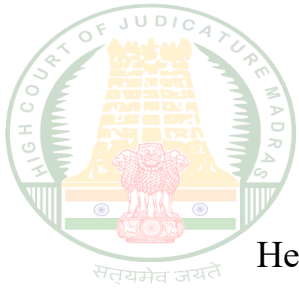
2.The Life Insurance Corporation of India
Rep. by its Managing Director,
Yogakshema, Jeevan Bima Marg,
Mumbai - 400 021.

Respondents

PRAYER Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of termination dated 18.12.2017 passed by the 1st respondent and confirmed in the appeal order dated 19.03.2020 passed by the 2nd respondent under the Development Officers (Revision of Certain Terms and Conditions of Service) Rules, 2009 quash the same and consequently direct the respondents to reinstate the petitioner into service with all attendant benefits.

For Petitioner: Mr.C.A.Ramanan for
Mr.N.Manoharan

For Respondents: Mr.R.S.Anandan,
Standing Counsel



ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondents and perused the record.

2. The petitioner by the present writ petition, has assailed the action of the respondents i.e., the 1st respondent in issuing the order of termination dated 18.12.2017 and that of the 2nd respondent dated 19.03.2020 whereby the appeal preferred by her against the order of termination, was dismissed.

3. The case of the petitioner is that she was appointed as Apprentice Developmental Officer 15.11.2010 in the office of the Branch Manager, Tiruppathur LIC Branch Office, Tiruppathur, of the respondents; that after initial training, she was posted as Probationary Development Officer with effect from 31.05.2011; that on successful completion of probation, her service was confirmed with effect from 01.06.2012 as per the proceedings dated 31.05.2012 issued by the Senior Divisional manager, LIC, Vellore.

4. It is the further contention of the petitioner that on her service being confirmed as Developmental Officer, during the first Appraisal Year Ending – 2012, she had achieved premium income of Rs.12,46,816/-; that during the next Appraisal Year Ending – 2013, despite 21 agents from and out of 40 agents who



were under her, getting terminated for non-fulfilment of the Minimum Business Guarantee (MBG) condition, she achieved the target of collecting the premium income of Rs.14,19,624/-; and that the collection of the premium incomes during both Appraisal Years were within the prescribed limit of cost Ratio.

5. The petitioner further contended that during the third Appraisal Year Ending – 2014, on account of various factors like change in IRDA syllabus for the examination conducted for appointment of agents, non availability of books in Regional language, withdrawal of various popular schemes by the respondents and also introduction of the service tax and educational cess on the new plans introduced by the respondents, the newly appointed agents were not able to convince the customers, due to which, her performance was affected and despite the same she could collect annual premium income to an extent of Rs.9,15,420/-; and that the aforesaid collection of the premium by her, was also within Cost Ratio norms prescribed by the respondents.

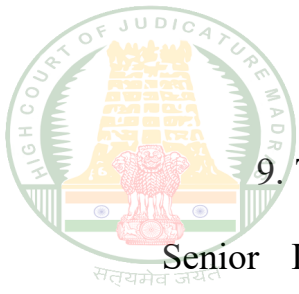
6. The petitioner also contended that during the Appraisal Year Ending – 2015, she had availed and was granted maternity leave during the period 09.06.2014 to 08.12.2014 i.e., for a period of six months and due to her pregnancy and related issues, she was not in a position to travel for long distances and follow up with the agents to achieve the targets by selling policies



of the respondents; that on account of being on maternity leave the premium income collection, had fallen drastically; and that 17 of her agents were terminated by the respondents which also had an impact on her performance during the Appraisal year – 2015.

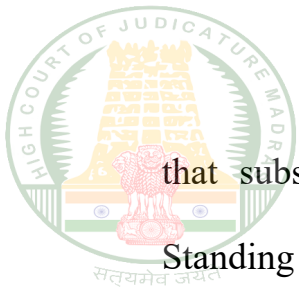
7. It is the further case of the petitioner that while she had joined duty on expiry of the maternity leave period, as she had to take care of the new born baby, she was unable to travel for longer duration and distances in the remaining period of the Appraisal year, i.e, from December 2014 to 31.05.2015 to achieve the target of collection of premium income.

8. The petitioner also contended that while she was preparing herself to carry forward the duties in the next Appraisal year, commencing from 01.06.2015, the respondents without taking note of the fact of she being on maternity leave and having attained motherhood on 14.07.2014, issued notice dated 20.06.2015, calling upon her to show cause as to why her services should not be terminated in pursuance to Rule 7 of the Life Insurance Corporation of India (Revision of certain Terms and Conditions of Service) Rules, 2009 (in short Service Rules, 2009); that she had submitted her reply dated 08.07.2015 and explained the factual position for not achieving the required premium income collection during the Appraisal year - 2015.



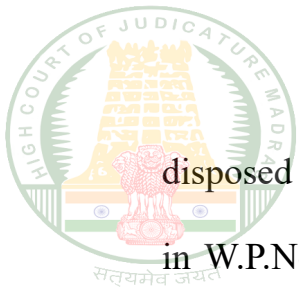
9. The petitioner further contended that the reply submitted by her to the Senior Divisional Manager was forwarded to the 1st respondent for consideration; that the 1st respondent thereafter issued second Show Cause Notice, dated 20.08.2015, calling upon her to show cause and explain within 30 days from the date of receipt of the said notice as to why her services should not be terminated in pursuance to Sub-rule (8) of Rule 6 r/w. Rule 7 of Service Rules, 2009 as her cost ratio for the Appraisal Year - 2015 was 115.91%, while permitted maximum is 38%; that the first respondent while issuing the aforesaid show cause notice, did not consider the explanation submitted by her to the Senior Divisional Manager offering explanation and reasons for not achieving the premium income collection during the Appraisal year - 2015; and that issuance of the show cause notice by the first respondent is also against the public policy and contrary to the provisions of Maternity Benefit Act, 1961 (in short Act, 1961) under which working women is entitled for being granted certain benefits.

10. It is the further case of the petitioner that as the show cause notice issued by the 1st respondent is opposed the public policy and the provisions of the Act, 1961, she had approached this Court by filing W.P.No.28616 of 2015 seeking to quash the show cause notices dated 20.06.2015 and 20.08.2015; that this Court was pleased to grant an interim order of status quo on 11.09.2015;



that subsequently, this Court taking note of the submission made by the Standing Counsel appearing on behalf of the respondents Corporation that the order under challenge be treated as withdrawn in view of the Judgment of the Kerala High Court in W.A.No.2006 of 2014 (***Life Insurance Corporation of India and Anr. Vs. Sonia Bhaskar and anr.***) disposed of the said writ petition filed by her on 30.03.2016, and granted liberty to the respondents to pass fresh orders after giving opportunity to the petitioner.

11. The petitioner contended that the 1st respondent however without taking note of the fact that she was on maternity leave for a period of six months which was duly sanctioned by the respondents, had once again issued show cause notice dated 27.01.2017, *inter alia* reiterating the contents of earlier show cause notice dated 20.08.2015, claiming that her annual remuneration for the Appraisal year - 2015 exceeds 38% of the eligible premium income collection of the year and directed her to appear before the 1st respondent for personal hearing on 27.02.2017; and that the 1st respondent merely relying on the Rules without taking into consideration the circumstances in which the petitioner could not achieve the premium income collection, was determined to terminate her service by invoking Rule 7 of the Service Rules, 2009 in issuing the aforesaid show cause notice, dated 27.01.2017, she had approached this Court by filing W.P.No.3722 of 2017; that this Court by order dated 15.09.2017



disposed of the writ petition; that aggrieved by the aforesaid order of this Court in W.P.No.3722 of 2017, she had filed Writ Appeal in W.A.No.1582 of 2017; that the Hon'ble Division Bench of this Court taking note of the fact that the challenge is to the show cause notice, was pleased to dispose of the Writ Appeal vide its order dated 04.12.2017, and permitted her to submit explanation raising the contention of she having availed maternity leave for 6 months at the relevant point of time and directed the respondents to consider the aforesaid plea taken by her along with supporting material positively; that even before the aforesaid order of the Division Bench of this Court in W.A.No.1582 of 2017 was made ready and delivered, the 1st respondent proceeded to pass an order dated 18.12.2017, terminating her service from the post of Developmental Officer without considering the direction issued by the Division Bench of this Court, to consider her explanation with regard to maternity leave for a period of 6 months at the relevant point of time, as one of the reason for not achieving the annual premium collection income; and that the aforesaid action of the 1st respondent clearly shows the predetermined approach to dispense with her services.

12. It is the further case of the petitioner that aggrieved by the aforesaid order of the 1st respondent, she had filed a Writ Petition before this Court in W.P.No.91 of 2019; that this Court by an order dated 07.03.2019, taking note of the fact that the Service Rules, 2009, provides for an appeal, directed the

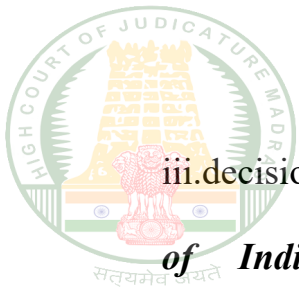


petitioner to approach the 2nd respondent by way of an appeal; that she had filed an appeal immediately thereafter on 13.03.2019 under Rule 7 (2) of the Special Rule, 2009; that the 2nd respondent dismissed the said appeal vide order dated 19.03.2020 and confirmed the order of the 1st respondent; and that the 2nd respondent while dismissing the appeal, did not pass a speaking order nor assign any valid reason, for not accepting the submission putforth by the petitioner.

13. It is the further case of the petitioner that though the 2nd respondent in the impugned order made a reference to her continuation in service subsequently, however did not take into consideration her subsequent performance, and passed his order claiming that her performance during the subsequent Appraisal year was also not satisfactory. Contending as above, the petitioner seeks for setting aside the order of the 1st respondent dated 18.12.2017 as confirmed by the 2nd respondent vide order dated 19.03.2020.

14. In support of the aforesaid submission, reliance is placed on the following decisions:

- i. Judgment of the Hon'ble Supreme Court in ***K.S.Ravindran Vs. Branch Manager, New India Assurance Company Ltd.***, reported in (2015) 7 SCC 222;
- ii. Order passed by the Division Bench of this Court in ***W.A.No.1639 of 2017, dated 08.12.2017***;



iii. decision of the Kerala High Court in the case of ***Life Insurance Corporation of India and Ors., Vs. Sonia Bhaskar and Ors.*** reported in ***Manu/KE/1379/2015***;

iv. Order passed by the Division Bench of this Court in ***W.P.No.27556 of 2018***, dated ***18.10.2024***.

15. Counter affidavit on behalf of the respondents, is filed.

16. The respondents by the counter affidavit contended that the Service Rules, 2009 were notified by the Government of India on 12.11.2009; that every confirmed Development Officer has to perform within the framework of these Rules; that as per the Service Rules, 2009, the petitioners attracted disincentives and got terminated as per Sub-Rule (8) of Rule 6 r/w. Rule (7) of Service Rules, 2009; and that the aforesaid Rules are applicable to all the confirmed Development Officers.

17. The respondents by the counter affidavit further contended that during the Appraisal year - 2015, the petitioner was expected to bring Rs.15,78,721/- as Premium Income Collection; that against the aforesaid income to be secured, the petitioner had secured the amount of Rs.2.86 lakhs only as premium income, which clearly shows that the petitioner did not discharge the duties during the



Appraisal Year - 2015; that on account of the petitioner not being able to collect the required premium income, cost ratio exceeded 38% as permitted under the Rules; thus, the explanation, dated 08.07.2015 submitted by the petitioner to the Senior Divisional Manager, was found not acceptable, and was accordingly forwarded to the Zonal Manager for taking further action; and that the 1st respondent thereafter issued the second show cause notice dated 20.08.2015 to the petitioner.

18. The respondents by the counter affidavit also contended that the duties of the Developmental Officer are clearly delineated in the appointment order dated 31.05.2011 which was accepted by the petitioner and thus, the petitioner cannot take shelter of not being able to discharge the duties because of her maternity leave.

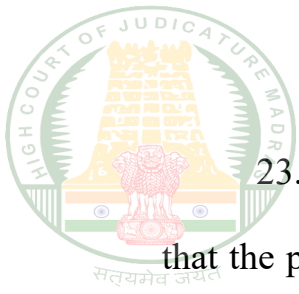
19. The respondents by the counter affidavit further contended that after this Court disposing of the Writ Petition in W.P.No.28616 of 2015 vide order dated 06.09.2015, the petitioner was called for personal hearing on 18.12.2017 and during the personal hearing as the petitioner did not state any new facts other than what was stated by her in her reply to the show cause notice, the 1st respondent considered the same and taken a decision to terminate her service as per provisions and Rules.



20. The respondents by the counter affidavit further contended that since, the petitioner has been appointed as the Development Officer, it is the duty of the petitioner to appoint agents in order to sell policies of the respondents and generate income by guiding, supervising, channelizing and motivating the activities of the agents under her control; that the petitioner having failed miserably in her duties, is only trying to take shelter on the ground of her maternity leave during the Appraisal year, for not achieving the premium income collection; that, the 1st respondent considering the overall performance of the petitioner had terminated her service, as per the Rules and Regulations; and that the termination is only simplicitor and is not by way of punishment.

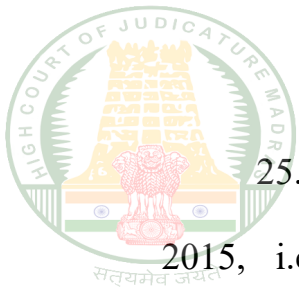
21. On behalf of the respondents, it is also contended that the petitioner's performance even during the previous year i.e., Appraisal Year - 2014, was not up to the mark; that the respondents considering her over all performance of the Appraisal Years 2014 and 2015, have initiated action to terminate her service and as such the order of the 1st respondent as confirmed by the 2nd respondent impugned in the present writ petition, does not call for any interference. Contending as above, the respondents seek for dismissal of the Writ Petition.

22. I have taken note of the respective submissions made.



23. At the outset, it is to be noted that though the respondents had claimed that the petitioner's performance during the Appraisal Year - 2014 was also not up to the mark, and the said fact has also been considered while issuing show cause notice. On two occasions, it is to be noted that in the Show Cause notice issued, initially by the Senior Divisional Manager and thereafter by the 1st respondent, there is no mention of non satisfactory performance of the petitioner during the Appraisal Year - 2014. Further, the premium income collection by the petitioner during the Appraisal Year 2014 is within the norms prescribed by the respondents; i.e., upto 38 and the petitioner having income expense ratio 37.18%, it is not open for the respondents to contend that the petitioner performance during the Appraisal Year - 2014 was not satisfactory.

24. Further, as noted herein above, since, the show cause notices as issued from June, 2015, did not mention anything about non performance of the petitioner during the Appraisal Year - 2014, this Court is of the view that the respondents cannot be allowed to claim non satisfactory performance regarding the Appraisal Year - 2014 and are required to justify their stand only on the basis of proceedings initiated relating to the performance of the petitioner during the Appraisal year - 2015.



25. Insofar as, the performance of the petitioner for the Appraisal year – 2015, i.e., commencing from 01.06.2014 to 30.04.2015, is concerned, admittedly, the respondents themselves have granted maternity leave to the petitioner for a period of 6 months which ended only on 08.12.2014. Though the petitioner joined back the service of the respondents as Development Officer, one cannot ignore the fact of the petitioner having attained motherhood in the month of July 2014 and the needs she would be required to fulfill as a mother of a new born.

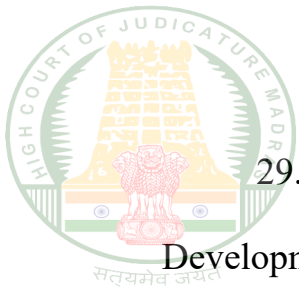
26. Though on behalf of the respondents, it is contended that the petitioner being the Development Officer, is only required to appoint agents and motivate them to sell the various products / policies of the respondents, and the petitioner having failed in that regard, it is to be noted that the respondents by their own admission, admit to the fact of petitioner having covered 34 lives during the Appraisal period – 2015, though the premium collection was only to the tune of 2.86 lakhs. The fact of the petitioner through her agents having covered 34 lives during the Appraisal year, post maternity leave, would go to show that the petitioner had put in effort to generate policy income for the respondents Corporation and it is not as if the petitioner was sitting idle, inspite of petitioner having to traverse the complexities of motherhood. The respondents however, ignorant of the aforesaid fact, adopting a mechanical



approach initiated proceedings against the petitioner by issuing show cause notice placing reliance on the Rules. It is to be noted that the Rules would be applicable in normal circumstances and not when the supervening circumstances occur like act of God, Covid 19, when conditions like lock down had been imposed by the Government.

27. Though in the facts of the present case, there is no supervening circumstance preventing the petitioner from discharging her duties, the fact of the petitioner being a women and the legislature having conferred certain rights and benefits, particularly in the form of granting maternity leave under the Maternity Benefit Act, 1961, the respondents ignoring the said rights and benefits, could not and ought not to have held that the petitioner having failed to collect premium income and thus, the petitioner performance was not within the frame work of the Service Rules, 2009.

28. Further, a reading of Service Rules, 2009 of the respondents, on the basis of which, the respondents have terminated the service of the petitioner, in particular Rule – 3 provides that - “the service of a confirmed Development Officer shall not be terminated on the ground of poor business production resulting in cost ratio in excess of the expense limit applicable to him, unless he has been given an opportunity to confirm to the expense limit” as provided in Rule 6.



29. Rule 6 of the Service Rules, 2009 provides for disincentivizing the Development Officer where the annual remuneration in the preceeding year is in excess of expense limit, and provided for being granted atleast three opportunities to improve performance. Thus, a conjoint reading of Rule 3, 6 and 7 of Service Rules, 2009, would indicate that the respondents are required to sensitize / inform the concerned development Officer of his / her non-performance, due to which, he being disincentivized and provide an opportunity to improve before resorting to take action under Rule 6(8) r/w. Rule 7 of the Service Rules, 2009.

30. In the facts of the present case, no material is placed on record by the respondents to show that the petitioner being disincentivized, her performance having not improved, thereby the respondents having resorted to invoking Rule 7 of the Service Rules, 2009. That apart, the respondents by the counter affidavit filed have not provided any details as to whether the petitioner has been informed during the Appraisal year -2015, of her falling performance, attracting action under Rule – 7 of the Service Rules, 2009.

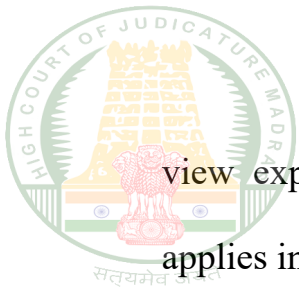
31. As the respondents have failed to follow the Service Rules, 2009 and straight away initiated action under Rule 7 of the Service Rules, 2009, the said action of the respondents is to be held as vitiated and unsustainable.



32. It is also disheartening to note that not only the 1st respondent failed to consider the special circumstances in which the petitioner was placed during the Appraisal year - 2015, the 2nd respondent to whom an appeal was filed by the petitioner pursuant to order in W.A.No.1583 of 2015, except mentioning about the number of agents recruited and terminated during the Appraisal year -2015 and subsequently, did not consider the plea of petitioner of her performance getting affected during the Appraisal year on account of her availing maternity leave, nor recorded any finding as how the said leave availed could not have impacted her performance.

33. Further, the 2nd respondent while confirming the order also did not take into consideration the mitigating circumstances for her non performance during the Appraisal year 2015, and whether the petitioner was provided with opportunity to improve her performance in the subsequent Appraisal period.

34. The Division Bench of the Kerala High Court in similar circumstances taking note of the provisions of the Maternity Benefits Act, 1961, and also the decision of the Hon'ble Apex Court, held that the fact of employee was on maternity leave for 6 months is a relevant fact for considering her explanation in reply to the notice issued under Rule 7 (1) of the Service Rules, 2009 and accordingly, dismissed the appeal of the respondents. The aforesaid



view expressed by the Division Bench of the Hon'ble Kerala High Court, applies in all force to the facts of the present case.

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35. It is pertinent to note that the Special Leave Petition filed by the respondents against the decision of the Division Bench of the Kerala High Court before the Hon'ble Supreme Court in SLP (Civil) No.16452 of 2016 was dismissed by the Hon'ble Supreme Court vide its order dated 12.11.2024. Thus, the view taken by the Division Bench of the Kerala High Court, has attained finality.

36. As the petitioner in the present case is similarly placed like the respondent before the Division Bench of the Kerala High Court, this Court is of the view that the aforesaid decision of the Kerala High Court as affirmed by the Hon'ble Apex Court, by dismissing the SLP would apply in all force to the case of the petitioner and thus, the petitioner is also entitled for being granted relief of setting aside the orders impugned in the present writ petition as passed by the 1st respondent, dated 18.12.2017, as confirmed by the 2nd respondent, dated 19.03.2020.

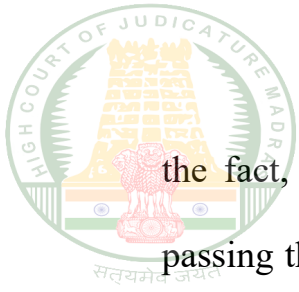
37. Further, the approach adopted by the respondents, in the view of this Court is on account of ignorance, respecting and understanding the needs of



working women, since the respondents Corporation never had the benefit of having women chairman / chairmanship, except two women occupying the post of Managing Director since, the inception of respondent corporation in the year 1956.

38. Further, the respondents while mechanically applying the Rules appears to be ignorant of the obligation which they have to perform, particularly while employing women in their organizations. The respondents admittedly having granted maternity leave to the petitioner are required to ensure that they comply with the provisions of the Maternity Benefit Act, 1961 which provides for maintaining of the nursing rooms, maintenance of Creche facilities. Judicial notice can be taken of the fact, that excepting in major officers of the respondents, such facilities are seldom exist. Thus, the respondents cannot be allowed to claim that while an employee is required to adhere to the service conditions / Rules, they can continue to violate the statutory requirements.

39. Accordingly, the Writ Petition is allowed; and the order of the 1st respondent, dated 18.12.2017, as confirmed by the 2nd respondent, vide order dated 19.03.2020, is set aside. The respondents are directed to reinstate the petitioner into service. However, taking note of the fact that the petitioner is required to collect annual premium for every Appraisal year and on account of



the fact, she being out of employment from the date of the first respondent passing the impugned order dated 18.12.2017, this Court is of the view that the petitioner would not be entitled for being granted any monetary benefits in the form of backwages or to seek restoration of seniority. No costs.

10-04-2026

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

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rep by the Zonal Manager, LIC Building,
153, Anna Salai, Chennai-02

2. The Life Insurance Corporation Of India
rep by its Managing director, Yogakshema,
Jeevan Bima Marg, Mumbai-400 021.



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Pre-Delivery Order made in
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